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10/542,060

07/13/2005

Oliver Browne-Wilkinson

3008-1041

6328

466 7590 08/17/2007
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EXAMINER

FERNSTROM, KURT

ART UNIT

PAPER NUMBER

3711

MAIL DATE

DELIVERY MODE

08/17/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|---|--|
| Office Action Summary | Application No. 10/542,060 | Applicant(s) BROWNE-WILKINSON, OLIVER | |
| | Examiner Kurt Fernstrom | Art Unit 3711 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**: 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6,8-12 and 15-22 is/are rejected.
- 7) ☒ Claim(s) 7,8 and 14 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>7/13/05</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Information Disclosure Statement

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3, 5, 6, 17 and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Riener. Riener shows in the Figures an orthopedic demonstration aid comprising first and second facsimile bone portions, where each portion is secured to a

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shaft portion to secure each bone portion in a desired position. Figure 1a in particular shows shaft elements at 5 and 7 attached to bone portions 3 and 4. With respect to claim 2, Figure 1a further shows that the bone portions are connected by a joint portion. With respect to claim 3, Figure 1d shows a ball and socket mechanism as claimed. With respect to claims 5 and 6, Riener discloses upper and lower leg portions as recited. With respect to claims 17 and 18, the connector portions of Riener resist axial rotation in the manner recited.

Claims 9-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Braeg. Braeg discloses in the Figures and specification an orthopedic skeletal demonstration aid comprising first and second joint portions manipulable to mimic the action of a joint, and facsimile ligament means securing the joint portions together. With respect to claim 10, Braeg discloses that the ligament means comprise lateral portions resiliently held under tension. With respect to claim 11, Braeg discloses hooks for releasably attaching the ligament means.

Claims 15 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Chandler. Chandler discloses in the Figures and specification an orthopedic skeletal demonstration aid comprising first and second joint portions manipulable to mimic the action of a joint, and a patella portion overlying the junction of the joint portions held in position by ligament means. With respect to claim 16, the ligament means are held in the manner recited.

Claim Rejections - 35 USC § 103

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Riener in view of Gil. Riener discloses all of the limitations with the exception of the means of detachably securing the joint portions. However, it is well known to releasably secure a surgical demonstration aid to a work surface, as shown for example in Figure 1 of Gil. It would have been obvious to one of ordinary skill in the relevant art to modify the teachings of Riener by providing means of detachably securing the joint portions for the purpose of allowing a user to selectively secure and remove the joint portions as desired.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Braeg. Braeg discloses all of the claim limitations with the exception of the adjustable screw. However, this is considered to be an obvious variation on the hooks of Braeg, serving substantially the same purpose.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Braeg in view of Chandler. Braeg discloses all of the limitations with the exception of the ligament means extending through the joint means as recited. However, this feature is known, as disclosed for example in Figures 10-13 of Chandler. It would have been obvious to one of ordinary skill in the relevant art to modify the teachings of Braeg by

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providing ligament means extending through the joint means for the purpose of more accurately simulating a human joint.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Riener in view of Gil, and further in view of Braeg. Riener as viewed with Gil discloses all of the limitations with the exception of the ligament means as recited. The clamp of Gil is considered to read on the quick release means as recited. However, ligament means are known in the art, as shown for example by Braeg. It would have been obvious to one of ordinary skill in the relevant art to modify the teachings of Riener as viewed with Gil by providing ligament means as recited portions for the purpose of more accurately simulating a human joint.

Claims 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Riener in view of Gil and Braeg, and further in view of Chandler. Riener as viewed with Gil and Braeg discloses all of the limitations with the exception of the soft tissue portion as recited. However, this feature is known, as disclosed for example by Chandler. It would have been obvious to one of ordinary skill in the relevant art to modify the teachings of Riener as viewed with Gil and Braeg by providing soft tissue portions as recited for the purpose of more accurately simulating a human joint.

Allowable Subject Matter

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Claims 7, 8 and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: There is no suggestion of a device having all of the claimed limitations, in particular the releasable securing means as recited in claim 7 and described in the specification and the arrangement of the ligament means as recited in claim 14.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Mason, Kortge, Haffner, Slocum, Browne-Wilkinson, Thill, Strover, Wiley, Draenert, Trella, Hunter and Bezark disclose various skeletal demonstration devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kurt Fernstrom whose telephone number is (571) 272-4422. The examiner can normally be reached on M-F 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Kim can be reached on 571 272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KF
August 15, 2007



**KURT FERNSTROM
PRIMARY EXAMINER**